IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO.30 OF 2001

Shri Francisco @ Pakul Anton
Gonsalves, House No.218,
Baixo-de-Igreja,
Agassaim,Ilhas-Goa
(At present lodged in
Central Jail, Aguada,Goa) ... APPELLANT

VERSUS

S T A T E
(through Goa Velha
Police Station) ... RESPONDENT.

Mr. Arun B. de Sa, Advocate for the Appellant.

Mr. S.N. Sardessai, Public Prosecutor, for the Respondent-State.

CORAM : D.G. DESHPANDE &
P.V. HARDAS,JJ.

DATED : JANUARY 27, 2003.

ORAL ORDER (Per D.G. DESHPANDE,J.)

Heard the Advocate for the accused/Appellant and the Public Prosecutor for the State Respondent. The accused/Appellant is convicted by the trial Court for offence under Section 302 of Indian Penal Code and sentenced to undergo imprisonment for life.

2. The defence of the accused, as

urged by his Advocate, was that under Section 84 of I.P.C. to the effect that the accused was suffering from insanity at the time of commission of the offence. The defence has also relied upon the evidence of P.W.1 who is a Doctor and who had opportunity to examine the accused and issued certificate in that regard. However, apart from the evidence of the Doctor, no other evidence was brought on record by the accused to substantiate his defence. Counsel for the accused, therefore, pleaded that the matter be remanded in order to enable the accused to prove his defence properly.

3. We have heard the Advocate for the accused and looking to the specific defence raised by the accused and the evidence of the Doctor and the certificate issued by her and the evidence coming forth from the other witnesses, this appears to be a case where the prayer for remand requires to be accepted. Therefore, the conviction of the accused under Section 302 of I.P.C. is set aside.

4. The matter is remanded to the trial Court who will give opportunity to the accused to prove his defence and the matter, thereafter, will be decided afresh on merits. The trial to be concluded within six months. The accused will not

be enlarged on bail during the trial. Accused to remain present before the trial Court on 17-2-2003. Record and Proceedings be sent.

D.G. DESHPANDE,J.

P.V. HARDAS,J.

ac.